

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

(1) MISTY RALEY, Individually, and)
(2) MISTY RALEY, as Parent and)
Next Friend of C.G., W.G., and)
C.A.G., Minor Children,)

PLAINTIFFS,)

vs.)

(1) HYUNDAI MOTOR COMPANY, LTD., a)
Korean corporation; and (2) HYUNDAI)
MOTOR AMERICA, a California)
corporation,)

DEFENDANTS.)

CASE NO.

COMPLAINT

PLAINTIFFS STATE:

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. Sec. 1332 as the Plaintiffs and all Defendants are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

2. Plaintiffs are citizens of the State of Texas at the time of the filing of this action.

3. Defendants, Hyundai Motor Company, Ltd. and Hynudai Motor America, are corporations organized and existing under the laws of the Country and State of Korea and California, respectively, with their principal places of business in the Country and State set out above at the time of the filing of this action.

4. Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America, may be served with summons as follows:

Hyundai Motor Company, Ltd., served at: 231 Yangjac-dong, Seocho-gu, Seoul Korea;

Hyundai Motor America, served at: 2030 Main Street, Suite 1030, Irvine, CA 92614.

5. Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America, committed acts of negligence outside this State or territory resulting in the incident and damages complained of herein occurring within this State.

6. Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America, manufactured, designed, distributed, furnished, leased and/or sold in a national marketing scheme a defective product which foreseeably found its way into this State resulting in the incident and damages complained of herein occurring within this State.

7. The incident complained of occurred within this Federal

District.

8. The incident complained of occurred on or about December 19, 2003.

9. The incident complained of herein occurred in the following manner: Plaintiffs were traveling north bound on U.S. Highway 62 when an unknown driver of an automobile recklessly drove its automobile, causing Plaintiff, Misty Raley, to swerve into and hit sand barrels. Plaintiff, Misty Raley, was unable to control her automobile, which is the subject auto of this action, and said automobile rolled, thereby ejecting Plaintiff, Misty Raley.

10. The incident complained of herein occurred at or near the following location: Oklahoma City, Oklahoma County, State of Oklahoma on U.S. Highway 62 north bound one-half mile south of the S.W. 59th Street exit.

11. The injuries claimed herein to the Plaintiff, Misty Raley, resulted in the destruction of the parent/child relationship of the children of such injured party, C.G., W.G., and C.A.G., minor children. Such children lost the past and future contributions, nurture, education, training, and love and affection of such parent as a result of such injuries, and such children have been damaged in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) and all other damages

permitted by law.

12. The individual who received personal injuries as a result of the acts complained of herein is Misty Raley.

13. The physical injuries of Misty Raley consist of the following: the muscles, tendons, ligaments, bony structures, nerve centers, blood vessels and soft tissues of such person(s) body were pulled, torn, strained, traumatized, and their functions permanently impaired.

Additional injuries are as follows:

Incomplete quadraplegia; cervical fracture causing permanent paralysis with chronic infections and severe depression secondary to the paralysis.

These injuries are permanent, consciously painful, progressive and disfiguring, and Plaintiff has been damaged in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for such injuries, for past and future medical bills, past and future physical and mental pain and suffering, past and future disability and disfigurement, past and future loss of enjoyment of life, and past and future loss of earnings.

14. Plaintiff's children, C.G., W.G. and C.A.G., suffered mental

anguish and emotional grief as a result of witnessing injuries to others while such Plaintiffs were in the zone of danger and as a result thereof each have been damaged in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

15. The acts of the Defendants herein proximately caused and contributed to the injuries and damages complained of herein.

16. The injuries and damages complained of herein were a result of the acts of Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America, as follows:

A. Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America, breached their implied warranty of fitness and their implied warranty of merchantability.

B. That Defendants sold the product with knowledge of the defects and dangers hereinabove alleged and committed the negligent acts hereinabove alleged under circumstances which show complete indifference to or conscious disregard for the safety of others.

C. The subject product manufactured by Defendants, to wit: a 1999 Hyundai Sonata, VIN #KMHWF25S8XA126203, was defective in its condition, design, and/or manufacture when it was placed in the normal channels of commerce as follows:

- 1) Plaintiff(s) contend(s) such vehicle as designed and manufactured violated Federal Motor Vehicle Standards

208 and 209.

- 2) Plaintiff(s) contend(s) that the vehicle was not designed and manufactured in such a manner so to prevent a belted occupant from receiving serious disabling injuries during foreseeable crash forces.
- 3) Plaintiff(s) contend(s) that such vehicle had no rollover protective structure.
- 4) Plaintiff(s) contend(s) that the vehicle had inadequate occupant interior padding and a lack of and/or inadequate air gap padding.
- 5) Plaintiff(s) contend(s) that the vehicle was defective in that the roof, A and B pillars, were not manufactured and designed to withstand the foreseeable forces which would be exerted upon them in a foreseeable crash.
- 6) Plaintiff(s) contend(s) that the window and sun/moon roof designs were defective in that there was inadequate glazing, latches and bonding to reduce the possibility of an occupant ejected through the vehicle's windows and/or sun/moon roof during a foreseeable collision.
- 7) Plaintiff(s) contend(s) that the seat belt buckle was capable of inertia unlatch, inadvertent unlatch and/or false latch, all of which are the result of design defects.

8) The product was negligently designed as stated above.

17. The injuries and damages complained of herein were a result of the acts of Defendants, Hyundai Motor Company, Ltd., and Hyundai Motor America.

18. The above acts of Defendant(s), Hyundai Motor Company, Ltd. and Hyundai Motor America violated the customary and usual procedures and standards then and there existing and generally recognized by persons possessing the same and similar expertise of such Defendant(s).

19. All of the acts committed by Defendants, Hyundai Motor Company, Ltd. and Hyundai Motor America above amounted to a reckless disregard for the rights of others and were committed intentionally and with malice toward others and were life threatening to others and therefore each Plaintiff herein has been damaged in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) for punitive or exemplary damages. (Okla)

20. Suit was filed in the United States District Court for the Western District of Oklahoma, Case No. CIV-04-1467-HE, on October 29, 2004, and was subsequently dismissed without prejudice on March 10, 2005, on the claims of the Plaintiffs. Suit was filed in the District Court of Oklahoma County, State of Oklahoma, Case No. CJ-2005-4935,

on June 23, 2005, and was subsequently dismissed without prejudice on September 20, 2007, on the claims of the Plaintiffs.

WHEREFORE, Plaintiffs pray judgment in the amounts recited above, plus costs, interest, attorney's fees and such other relief as the Court may deem proper.

ATTORNEYS' LIEN CLAIMED

JURY TRIAL DEMANDED



JOHN M. MERRITT OBA #6146
MERRITT & ASSOCIATES, P.C.
P.O. BOX 1377
OKLAHOMA CITY, OKLAHOMA 73101
(405) 236-2222 FAX (405) 232-8360
ATTORNEYS FOR PLAINTIFFS